

REMARKS

By the present amendment, claim 1 has been amended.

Claims 1-15 and 26-30 are currently pending in the application, of which claims 2, 3, 6-10, 14 and 15 are withdrawn. Reconsideration and allowance of all of the claims is respectfully requested in view of the foregoing amendments and the following remarks.

In regard to Rejection of Claims 1, 4, 5 and 11-13 Under 35 USC § 112, second paragraph

The Examiner has rejected claims 1, 4, 5 and 11-13 under 35 USC § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as the invention.

In particular, the Examiner considers the recitation of “wherein the piston slides freely from its roll-over position to its normal position regardless of a fluid pressure in the inner chamber when the valve rolls into an upright position” in claim 1 to be unclear.

At the time of the previous amendments to the claims, the Applicants erroneously amended claim 1 to recite that “the piston slides freely ... regardless of a fluid pressure in the inner chamber”, instead of reciting that “the piston slides freely ... regardless of a fluid pressure in the inlet opening” as described in the specification.

In response to the Examiner’s remarks, the Applicants have amended claim 1 to correct this error.

Claim 1 as amended now recites

wherein the piston slides freely from its roll-over position to its normal position regardless of a fluid pressure in the inlet opening when the valve rolls into an upright position

This amendment is believed to be supported by the following portion of paragraph [0050] of the application as originally filed:

The channel 150 surrounds the lateral side of the piston 120 to ensure that pressure in the inlet 140 acts equally on all sides of the piston 120 so that the piston 120 can freely move in the

valve housing 110 regardless of the pressure in the inlet line
140.

Referring also to Figure 4 of the application as originally filed, the Applicants submit that it is clear how the piston slides freely from its roll-over position to its normal position regardless of a fluid pressure in the inlet opening when the valve rolls into an upright position.

As such, the Applicants submit that claim 1 as amended is now in full compliance with 35 USC § 112, and request that the Examiner withdraw his rejection.

In regard to Rejection of Claims 1, 4, 5, 11, 12 and 26-30 Under 35 USC § 102(b)

The Examiner has rejected claims 1, 4, 5, 11, 12 and 26-30 under 35 U.S.C. § 102(b), as being anticipated by Matsudaira, U.S. Patent No. 3,288,992.

The Examiner's attention is directed to the following feature of claims 1 and 26:

wherein the piston blocks at least one of the inlet and outlet openings to prevent fluid flow through the inner chamber when the piston is in its roll-over position

As agreed during the Examiner interview conducted on October 11, 2007 and reflected in the Interview Summary mailed by the Examiner on October 16, 2007, the Applicants submit that at least the above feature of claims 1 and 26 is not taught by Matsudaira.

Referring now to lines 33-38 of column 6 of Matsudaira,

[t]his upward movement of the weight causes the projection 69 thereof to lift the valve plate 74 so as to allow the pressurized air within the brake pipe to be vented into the atmosphere through the chambers 60 and 73, the channel 70, the chamber 61 and the port 62. Thus, the braking operation will be effected.

As agreed during the Examiner interview on October 11, 2007, the above passage of Matsudaira indicates that Matsudaira does not prevent fluid flow through the chamber 61, but instead opens a flow path through the chamber 61.

Therefore, at least one feature of claims 1 and 26 as amended is not taught by Matsudaira, and the Examiner is requested to withdraw his rejection of claim 1 and claims 4,

5, 11 and 12 depending therefrom, as well as claim 26 and claims 27-30 depending therefrom.

In regard to Rejection of Claim 13 Under 35 USC § 103(a)

The Examiner has rejected claim 13 under 35 U.S.C. § 103(a), as being unpatentable over Matsudaira. The Applicants disagree.

The Examiner's attention is directed to the following feature of claim 1:

wherein the piston blocks at least one of the inlet and outlet openings to prevent fluid flow through the inner chamber when the piston is in its roll-over position

As discussed above with respect to claims 1, 4, 5, 11, 12 and 26-30, at least the above feature of claim 1 is not taught by Matsudaira.

This deficiency in Matsudaira is not remedied by the Examiner's assertion that it

would have been obvious to one of ordinary skill in the art at the time of invention to employ the upper portion of the piston having a frusto-conical surface from figure 2 into figure 5 of Matsudaira et al. in order to break the plate and open the valve (Col. 2, Lns. 53-58).

The Applicants do not admit the correctness of the Examiner's assertion and reserve the right to argue thereagainst in the future.

Therefore, at least one feature of claim 1 as amended is not taught by Matsudaira or the Examiner's assertion, alone or in combination, without admitting the correctness of the Examiner's assertion. As such, the Examiner is requested to withdraw his rejection of claim 13 depending therefrom.

Request for rejoinder of withdrawn claims

As claim 1 is believed to be allowable, it is requested that previously withdrawn claims 2, 3, 6-10, 14 and 15 be rejoined and allowed, given their dependence from claim 1.

In view of the above remarks, the Applicants respectfully submit that all of the currently pending claims are allowable and that the entire application is in condition for allowance.

Should the Examiner believe that anything further is desirable to place the application in a better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

At the time of filing of the present response, the Office was authorized to charge the fees believed to be necessary to a credit card. In case of any under- or over-payment or should any additional fee be otherwise necessary, the Office is hereby authorized to credit or debit (as the case may be) Deposit Account number 502977.

Respectfully submitted,

/ Jonathan David Cutler /

Jonathan D. Cutler, Reg. No. 40,576
OSLER, HOSKIN & HARCOURT LLP
Attorneys for the Applicant

OSLER, HOSKIN & HARCOURT LLP
1000 de la Gauchetière St. West
Suite 2100
Montréal, Québec H3B 4W5
Canada

Tel. (514) 904-8100

Fax. (514) 904-8101